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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/766,950	01/30/2004	William P. McMullin	06975-529001	2494	
26171	7590 12/14/2005		EXAM	EXAMINER	
FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022		TRAN, QU	TRAN, QUOC DUC		
			ART UNIT	PAPER NUMBER	
			2643		
			DATE MAILED: 12/14/2009	DATE MAILED: 12/14/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary		Application No.	Applicant(s)				
		10/766,950	MCMULLIN ET AL.				
		Examiner	Art Unit				
		Quoc D. Tran	2643				
Period fo	The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply						
WHIC - Exter after - If NO - Failu Any r	ORTENED STATUTORY PERIOD FOR REPL CHEVER IS LONGER, FROM THE MAILING D assions of time may be available under the provisions of 37 CFR 1.1 SIX (6) MONTHS from the mailing date of this communication. Period for reply is specified above, the maximum statutory period re to reply within the set or extended period for reply will, by statute reply received by the Office later than three months after the mailin ed patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 136(a). In no event, however, may a reply be timwill apply and will expire SIX (6) MONTHS from a cause the application to become ABANDONE	N. lely filed the mailing date of this communication. D (35 U.S.C. § 133).				
Status							
1)⊠ 2a)⊟ 3)⊟	Since this application is in condition for allowa	s action is non-final. nce except for formal matters, pro					
closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.							
Disposition of Claims							
5)□ 6)⊠ 7)□	Claim(s) 1-40 is/are pending in the application 4a) Of the above claim(s) is/are withdra Claim(s) is/are allowed. Claim(s) 1-40 is/are rejected. Claim(s) is/are objected to. Claim(s) are subject to restriction and/or	wn from consideration.					
Application Papers							
10)⊠	The specification is objected to by the Examine The drawing(s) filed on 30 January 2004 is/are Applicant may not request that any objection to the Replacement drawing sheet(s) including the correct The oath or declaration is objected to by the Example 1.	e: a)⊠ accepted or b)⊡ objected drawing(s) be held in abeyance. See tion is required if the drawing(s) is obj	e 37 CFR 1.85(a). sected to. See 37 CFR 1.121(d).				
Priority ι	ınder 35 U.S.C. § 119						
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 							
Attachmen		_					
2) Notic	e of References Cited (PTO-892) se of Draftsperson's Patent Drawing Review (PTO-948) mation Disclosure Statement(s) (PTO-1449 or PTO/SB/08) r No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail Da 5) Notice of Informal P 6) Other:	(PTO-413) ate atent Application (PTO-152)				

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DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., In re Berg, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-40 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-37 of U.S. Patent No. 6,950,498. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-40 of the present invention is similar in scope to claims 1-37 of the U.S. Patent No. 6,950,498 with obvious wording variations. For example:

Consider claims 1, 7, 13, 14, 27 and 40, U.S. Patent No. 6,950,498 claimed a method and system to determine telephone services enabled on a telephone line that is registered to receive services from an online service provider, the method comprising: determining whether a telephone line registered to receive services from an online service provider is occupied; placing one or more test calls across a network to the telephone line conditioned upon whether the

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telephone line is determined to be occupied; receiving signaling data through the network in response to the test calls; and determining one or more telephone services that are believed to be enabled on the telephone line based on at least the signaling data.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
- 4. Claims 14-16, 21-22, 27-29, 34-35 and 40 are rejected under 35 U.S.C. 102(e) as being anticipated by Fedane (6,633,549).

Regarding claims 14-16, Fedane teaches a method for automatically detecting feature services on a directory number. The system place a call to it own directory number, evaluates the return message from the switch and displaying available feature services (see abstract; col. 2 lines 10-52). It should be notice that call forward busy service voicemail service are inherent to the features services from the switch.

Regarding claim 21, Fedane teaches a circuit-switched voice network (see Fig. 1).

Regarding claim 22, Fedane teaches a packet-switched data network (see Fig. 1).

Regarding claims 27-29 and 40, Fedane teaches a system for automatically detecting feature services on a directory number. The system place a call to it own directory number, evaluates the return message from the switch and displaying available feature services (see

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abstract; col. 2 lines 10-52). It should be notice that call forward busy service voicemail service are inherent to the features services from the switch.

Regarding claim 34, Fedane teaches a circuit-switched voice network (see Fig. 1).

Regarding claim 35, Fedane teaches a packet-switched data network (see Fig. 1).

Allowable Subject Matter

- 5. Claims 17-20, 23-26, 30-33 and 36-39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and overcome double patenting rejection set forth above.
- 6. Claims 1-13 would be allowed if overcome double patenting rejection set forth above.

Conclusion

- 7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
- 8. Any response to this action should be mailed to:

Mail Stop _____(explanation, e.g., Amendment or After-final, etc.)
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Facsimile responses should be faxed to:

(571) 273-8300

Hand-delivered responses should be brought to:
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Quoc Tran** whose telephone number is (571) 272-7511. The examiner can normally be reached on M, T, TH and Friday from 8:00 to 6:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Curtis Kuntz**, can be reached on (571) 272-7499.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Technology Center 2600** whose telephone number is (571) 272-2600.

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December 10, 2005